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## RECENT CASES.

CARRIER—FARE—TICKETS—OPPORTUNITY TO PROCURE—EJECTION OF PASSENGERS.—*PHILLIPS v. SOUTHERN R. R. Co.*, 40 S. E. Rep. 268 (Ga.).—The defendant's agent refused to sell the plaintiff a ticket, not knowing that the train would stop at the plaintiff's destination. It being customary under like circumstances to charge passengers without tickets no higher fare, the plaintiff refused to pay more, thereupon being ejected from the train. *Held*, the defendant liable.

A common carrier, if they charge passengers without tickets a higher rate, must first give them an opportunity to procure the same. *Railroad Co. v. Rogers*, 38 Ind. 116; *Railroad Co. v. Rinard*, 46 Ind. 293. A common carrier cannot discriminate; *Railroad Co. v. Park*, 83 Ky. 510.

CHINESE EXCLUSION—BURDEN OF PROOF—SUFFICIENCY OF EVIDENCE.—*U. S. v. CHUN HOY*, 111 FED. 899 (HAWAII).—Section 3 of the Geary Act places upon a Chinaman arrested for being illegally in this country the burden of proving affirmatively his right to remain. *Held*, an act of Congress raising presumption of guilt is valid, and evidence of Hawaiian birth, insufficient.

This presumption should be viewed under rule of evidence as to facts peculiarly within the knowledge of accused. Its harshness was due less to its intrinsic nature than to penalty of section 4. *Fong Que Ting v. U. S.*, 13 S. Ct. Rep. 1016; *In re Sing Lee*, 54 Fed. 334. Section 4 held unconstitutional. *U. S. v. Wong Dep Ken*, 57 Fed. 206. The mitigation of the penalty has removed objection to the rule.

Evidence of Hawaiian birth must be conclusive. Under 14 Amendment, law excluding immigrants is not applicable to Chinese person born in this country. *Gee Fook Sing v. U. S.*, 49 Fed. 146. *Lee Sing Far v. U. S.*, 94 Fed. 834.

CONSTITUTIONAL LAW—ELECTION BY LEGISLATURE OF ELECTION COMMISSIONERS—POWER TO CREATE BOARD TO TRY ELECTION CONTESTS.—*PRATT v. BRECKINRIDGE*, 65 S. W. REP. 136 (KY.).—The appellant having been awarded the office of attorney-general by a board of election commissioners, the appellee contested the decision, and the same commissioners, acting as a contest board, decided in his favor. He brought suit to gain possession of office. *Held*, that the legislature had no power to appoint a board of contest. Paynter, C. J., and Hobson and White, J. J., dissenting.

Although in *Stine v. Berry*, 96 Ky. 63, it was held that the statute creating special boards for the determination of contested elections was valid, this court favored the reasoning that a board of contest exercises in all its elements judicial power, and is therefore a court.

The whole judicial power of the State being expressly invested in the courts by the constitution, the exercise of it by the legislature transcends that power, and cannot be legally carried into effect. *James' Heirs v. Perry*, 10 Yerg. 59; 30 Am. Dec. 430.

CONSTITUTIONAL LAW—MINING COAL—PAYMENT BY WEIGHT—RIGHTS OF CORPORATIONS.—*WOODSON v. STATE*, 65 S. W. 465 (ARK.).—Under the ordinary constitutional provision that the powers granted a corporation may be altered or revoked,